

AMENDED IN SENATE AUGUST 11, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 334**

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**Introduced by Assembly Member ~~Gomez~~ Buchanan**

February 13, 2013

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An act to amend *and repeal* Section ~~11045~~ of the Government Code, relating to public employment, 101850 of the Health and Safety Code, relating to the Alameda Health System, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 334, as amended, ~~Gomez Buchanan. State personnel: employment of outside legal counsel. Alameda Health System hospital authority.~~

Existing law authorizes the board of supervisors of Alameda County to establish an independent hospital authority strictly and exclusively dedicated to the management, administration, and control of the group of public hospitals, clinics, and programs that comprise the Alameda County Medical Center. Existing law, commencing January 1, 2015, authorizes the board to establish an independent hospital authority for the Alameda Health System, formerly known as the Alameda County Medical Center, and makes conforming changes.

Existing law sets forth the powers and duties of the hospital authority, including, but not limited to, the power to contract for services required to meet its obligations. Existing law prohibits the hospital authority from entering into any contract with any private person or entity before January 1, 2024, to replace services being provided by physicians and surgeons who are employed by the hospital authority and in a recognized collective bargaining unit as of March 31, 2013, with services provided by a private person or entity without clear and

*convincing evidence that the needed medical care can only be delivered cost effectively by a private contractor.*

*This bill would, until January 1, 2015, instead prohibit the Alameda County Medical Center, and after that date, would prohibit the hospital authority, from entering into any contract with any other person or entity, including, but not limited to, a subsidiary or other entity established by the authority, to replace the services described above with services provided by that other person or entity without clear and convincing evidence that the needed medical care can only be delivered cost effectively by that other person or entity.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law generally requires the written consent of the Attorney General prior to employment of outside counsel for representation of any state agency or employee in any judicial proceeding. Existing law requires a state agency requesting the consent of the Attorney General to employ outside counsel to provide a notice containing specified information regarding the request to the designated representative of State Employees Bargaining Unit 2. Existing law further requires a state agency, when it submits a contract for outside counsel to the Department of General Services in connection with state contracting requirements, to also submit a copy of the contract to the designated representative of State Employees Bargaining Unit 2.~~

~~This bill would provide that the failure of a state agency to provide a copy of the contract for outside counsel to the designated representative State Employees Bargaining Unit 2 when it provides a copy to the Department of General Services, as described above, is an independent basis for the State Personnel Board to disapprove the contract.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: ~~yes~~<sup>no</sup>. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 101850 of the Health and Safety Code is  
2     amended to read:

3     101850. The Legislature finds and declares the following:

4     (a) (1) Due to the challenges facing the Alameda County  
5     Medical Center arising from changes in the public and private  
6     health industries, the Alameda County Board of Supervisors has

determined that a transfer of governance of the Alameda County Medical Center to an independent governing body, a hospital authority, is needed to improve the efficiency, effectiveness, and economy of the community health services provided at the medical center. The board of supervisors has further determined that the creation of an independent hospital authority strictly and exclusively dedicated to the management, administration, and control of the medical center, in a manner consistent with the county's obligations under Section 17000 of the Welfare and Institutions Code, is the best way to fulfill its commitment to the medically indigent, special needs, and general populations of Alameda County. To accomplish this, it is necessary that the board of supervisors be given authority to create a hospital authority. Because there is no general law under which this authority could be formed, the adoption of a special act and the formation of a special authority is required.

(2) The following definitions shall apply for purposes of this section:

(A) "The county" means the County of Alameda.

(B) "Governing board" means the governing body of the hospital authority.

(C) "Hospital authority" means the separate public agency established by the Board of Supervisors of Alameda County to manage, administer, and control the Alameda County Medical Center.

(D) "Medical center" means the Alameda County Medical Center.

(b) The board of supervisors of the county may, by ordinance, establish a hospital authority separate and apart from the county for the purpose of effecting a transfer of the management, administration, and control of the medical center in accordance with Section 14000.2 of the Welfare and Institutions Code. A hospital authority established pursuant to this chapter shall be strictly and exclusively dedicated to the management, administration, and control of the medical center within parameters set forth in this chapter, and in the ordinance, bylaws, and contracts adopted by the board of supervisors ~~which~~ *that* shall not be in conflict with this chapter, Section 1442.5 of this code, or Section 17000 of the Welfare and Institutions Code.

1 (c) A hospital authority established pursuant to this chapter shall  
2 be governed by a board that is appointed, both initially and  
3 continually, by the Board of Supervisors of the County of Alameda.  
4 This hospital authority governing board shall reflect both the  
5 expertise necessary to maximize the quality and scope of care at  
6 the medical center in a fiscally responsible manner and the diverse  
7 interest that the medical center serves. The enabling ordinance  
8 shall specify the membership of the hospital authority governing  
9 board, the qualifications for individual members, the manner of  
10 appointment, selection, or removal of governing board members,  
11 their terms of office, and all other matters that the board of  
12 supervisors deems necessary or convenient for the conduct of the  
13 hospital authority's activities.

14 (d) The mission of the hospital authority shall be the  
15 management, administration, and other control, as determined by  
16 the board of supervisors, of the group of public hospitals, clinics,  
17 and programs that comprise the medical center, in a manner that  
18 ensures appropriate, quality, and cost-effective medical care as  
19 required of counties by Section 17000 of the Welfare and  
20 Institutions Code, and, to the extent feasible, other populations,  
21 including special populations in Alameda County.

22 (e) The board of supervisors shall adopt bylaws for the medical  
23 center that set forth those matters related to the operation of the  
24 medical center by the hospital authority that the board of  
25 supervisors deems necessary and appropriate. The bylaws shall  
26 become operative upon approval by a majority vote of the board  
27 of supervisors. Any changes or amendments to the bylaws shall  
28 be by majority vote of the board of supervisors.

29 (f) The hospital authority created and appointed pursuant to this  
30 section is a duly constituted governing body within the meaning  
31 of Section 1250 and Section 70035 of Title 22 of the California  
32 Code of Regulations as currently written or subsequently amended.

33 (g) Unless otherwise provided by the board of supervisors by  
34 way of resolution, the hospital authority is empowered, or the  
35 board of supervisors is empowered on behalf of the hospital  
36 authority, to apply as a public agency for one or more licenses for  
37 the provision of health care pursuant to statutes and regulations  
38 governing licensing as currently written or subsequently amended.

39 (h) In the event of a change of license ownership, the governing  
40 body of the hospital authority shall comply with the obligations

of governing bodies of general acute care hospitals generally as set forth in Section 70701 of Title 22 of the California Code of Regulations, as currently written or subsequently amended, as well as the terms and conditions of the license. The hospital authority shall be the responsible party with respect to compliance with these obligations, terms, and conditions.

(i) (1) Any transfer by the county to the hospital authority of the administration, management, and control of the medical center, whether or not the transfer includes the surrendering by the county of the existing general acute care hospital license and corresponding application for a change of ownership of the license, shall not affect the eligibility of the county, or in the case of a change of license ownership, the hospital authority, to do any of the following:

(A) Participate in, and receive allocations pursuant to, the California Healthcare for the ~~Indigent~~ *Indigents* Program (CHIP).

(B) Receive supplemental reimbursements from the Emergency Services and Supplemental Payments Fund created pursuant to Section 14085.6 of the Welfare and Institutions Code.

(C) Receive appropriations from the Medi-Cal Inpatient Payment Adjustment Fund without relieving the county of its obligation to make intergovernmental transfer payments related to the Medi-Cal Inpatient Payment Adjustment Fund pursuant to Section 14163 of the Welfare and Institutions Code.

(D) Receive Medi-Cal capital supplements pursuant to Section 14085.5 of the Welfare and Institutions Code.

(E) Receive any other funds that would otherwise be available to a county hospital.

(2) Any transfer described in paragraph (1) shall not otherwise disqualify the county, or in the case of a change in license ownership, the hospital authority, from participating in any of the following:

(A) Other funding sources either specific to county hospitals or county ambulatory care clinics or for which there are special provisions specific to county hospitals or to county ambulatory care clinics.

(B) Funding programs in which the county, on behalf of the medical center and the Alameda County Health Care Services Agency, had participated prior to the creation of the hospital authority, or would otherwise be qualified to participate in had the

1 hospital authority not been created, and administration,  
2 management, and control not been transferred by the county to the  
3 hospital authority, pursuant to this chapter.

4 (j) A hospital authority created pursuant to this chapter shall be  
5 a legal entity separate and apart from the county and shall file the  
6 statement required by Section 53051 of the Government Code.  
7 The hospital authority shall be a government entity separate and  
8 apart from the county, and shall not be considered to be an agency,  
9 division, or department of the county. The hospital authority shall  
10 not be governed by, nor be subject to, the charter of the county  
11 and shall not be subject to policies or operational rules of the  
12 county, including, but not limited to, those relating to personnel  
13 and procurement.

14 (k) (1) Any contract executed by and between the county and  
15 the hospital authority shall provide that liabilities or obligations  
16 of the hospital authority with respect to its activities pursuant to  
17 the contract shall be the liabilities or obligations of the hospital  
18 authority, and shall not become the liabilities or obligations of the  
19 county.

20 (2) Any liabilities or obligations of the hospital authority with  
21 respect to the liquidation or disposition of the hospital authority's  
22 assets upon termination of the hospital authority shall not become  
23 the liabilities or obligations of the county.

24 (3) Any obligation of the hospital authority, statutory,  
25 contractual, or otherwise, shall be the obligation solely of the  
26 hospital authority and shall not be the obligation of the county or  
27 the state.

28 (l) (1) Notwithstanding any other provision of this section, any  
29 transfer of the administration, management, or assets of the medical  
30 center, whether or not accompanied by a change in licensing, shall  
31 not relieve the county of the ultimate responsibility for indigent  
32 care pursuant to Section 17000 of the Welfare and Institutions  
33 Code or any obligation pursuant to Section 1442.5 of this code.

34 (2) Any contract executed by and between the county and the  
35 hospital authority shall provide for the indemnification of the  
36 county by the hospital authority for liabilities as specifically set  
37 forth in the contract, except that the contract shall include a  
38 provision that the county shall remain liable for its own negligent  
39 acts.

1 (3) Indemnification by the hospital authority shall not be  
2 construed as divesting the county from its ultimate responsibility  
3 for compliance with Section 17000 of the Welfare and Institutions  
4 Code.

5 (m) Notwithstanding the provisions of this section relating to  
6 the obligations and liabilities of the hospital authority, a transfer  
7 of control or ownership of the medical center shall confer onto the  
8 hospital authority all the rights and duties set forth in state law  
9 with respect to hospitals owned or operated by a county.

10 (n) (1) A transfer of the maintenance, operation, and  
11 management or ownership of the medical center to the hospital  
12 authority shall comply with the provisions of Section 14000.2 of  
13 the Welfare and Institutions Code.

14 (2) A transfer of maintenance, operation, and management or  
15 ownership to the hospital authority may be made with or without  
16 the payment of a purchase price by the hospital authority and  
17 otherwise upon the terms and conditions that the parties may  
18 mutually agree, which terms and conditions shall include those  
19 found necessary by the board of supervisors to ensure that the  
20 transfer will constitute an ongoing material benefit to the county  
21 and its residents.

22 (3) A transfer of the maintenance, operation, and management  
23 to the hospital authority shall not be construed as empowering the  
24 hospital authority to transfer any ownership interest of the county  
25 in the medical center except as otherwise approved by the board  
26 of supervisors.

27 (o) The board of supervisors shall retain control over the use of  
28 the medical center physical plant and facilities except as otherwise  
29 specifically provided for in lawful agreements entered into by the  
30 board of supervisors. Any lease agreement or other agreement  
31 between the county and the hospital authority shall provide that  
32 county premises shall not be sublet without the approval of the  
33 board of supervisors.

34 (p) The statutory authority of a board of supervisors to prescribe  
35 rules that authorize a county hospital to integrate its services with  
36 those of other hospitals into a system of community service that  
37 offers free choice of hospitals to those requiring hospital care, as  
38 set forth in Section 14000.2 of the Welfare and Institutions Code,  
39 shall apply to the hospital authority upon a transfer of maintenance,

1 operation, and management or ownership of the medical center by  
2 the county to the hospital authority.

3 (q) The hospital authority shall have the power to acquire and  
4 possess real or personal property and may dispose of real or  
5 personal property other than that owned by the county, as may be  
6 necessary for the performance of its functions. The hospital  
7 authority shall have the power to sue or be sued, to employ  
8 personnel, and to contract for services required to meet its  
9 obligations. Before January 1, 2024, the hospital authority shall  
10 not enter into a contract with any ~~private other person or entity~~  
11 *entity, including, but not limited to, a subsidiary or other entity*  
12 *established by the authority*, to replace services being provided by  
13 physicians and surgeons who are employed by the hospital  
14 authority and in a recognized collective bargaining unit as of March  
15 31, 2013, with services provided by a ~~private that other person or~~  
16 *entity without clear and convincing evidence that the needed*  
17 *medical care can only be delivered cost-effectively cost effectively*  
18 *by a private contractor. that other person or entity*. Prior to entering  
19 into a contract for any of those services, the authority shall  
20 negotiate with the representative of the recognized collective  
21 bargaining unit of its physician and surgeon employees over the  
22 decision to privatize and, if unable to resolve any dispute through  
23 negotiations, shall submit the matter to final binding arbitration.

24 (r) Any agreement between the county and the hospital authority  
25 shall provide that all existing services provided by the medical  
26 center shall continue to be provided to the county through the  
27 medical center subject to the policy of the county and consistent  
28 with the county's obligations under Section 17000 of the Welfare  
29 and Institutions Code.

30 (s) A hospital authority to which the maintenance, operation,  
31 and management or ownership of the medical center is transferred  
32 shall be a "district" within the meaning set forth in the County  
33 Employees Retirement Law of 1937 (Chapter 3 (commencing with  
34 Section 31450) of Part 3 of Division 4 of Title 3 of the Government  
35 Code). Employees of a hospital authority are eligible to participate  
36 in the County Employees Retirement System to the extent  
37 permitted by law, except as described in Section 101851.

38 (t) Members of the governing board of the hospital authority  
39 shall not be vicariously liable for injuries caused by the act or  
40 omission of the hospital authority to the extent that protection



1 applies to members of governing boards of local public entities  
2 generally under Section 820.9 of the Government Code.

3 (u) The hospital authority shall be a public agency subject to  
4 the ~~Myers-Milias-Brown~~ *Meyers-Milias-Brown* Act (Chapter 10  
5 (commencing with Section 3500) of Division 4 of Title 1 of the  
6 Government Code).

7 (v) Any transfer of functions from county employee  
8 classifications to a hospital authority established pursuant to this  
9 section shall result in the recognition by the hospital authority of  
10 the employee organization that represented the classifications  
11 performing those functions at the time of the transfer.

12 (w) (1) In exercising its powers to employ personnel, as set  
13 forth in subdivision (p), the hospital authority shall implement,  
14 and the board of supervisors shall adopt, a personnel transition  
15 plan. The personnel transition plan shall require all of the  
16 following:

17 (A) Ongoing communications to employees and recognized  
18 employee organizations regarding the impact of the transition on  
19 existing medical center employees and employee classifications.

20 (B) Meeting and conferring on all of the following issues:

21 (i) The timeframe for which the transfer of personnel shall occur.  
22 The timeframe shall be subject to modification by the board of  
23 supervisors as appropriate, but in no event shall it exceed one year  
24 from the effective date of transfer of governance from the board  
25 of supervisors to the hospital authority.

26 (ii) A specified period of time during which employees of the  
27 county impacted by the transfer of governance may elect to be  
28 appointed to vacant positions with the Alameda County Health  
29 Care Services Agency for which they have tenure.

30 (iii) A specified period of time during which employees of the  
31 county impacted by the transfer of governance may elect to be  
32 considered for reinstatement into positions with the county for  
33 which they are qualified and eligible.

34 (iv) Compensation for vacation leave and compensatory leave  
35 accrued while employed with the county in a manner that grants  
36 affected employees the option of either transferring balances or  
37 receiving compensation to the degree permitted employees laid  
38 off from service with the county.

39 (v) A transfer of sick leave accrued while employed with the  
40 county to hospital authority employment.

1 (vi) The recognition by the hospital authority of service with  
2 the county in determining the rate at which vacation accrues.

3 (vii) The possible preservation of seniority, pensions, health  
4 benefits, and other applicable accrued benefits of employees of  
5 the county impacted by the transfer of governance.

6 (2) Nothing in this subdivision shall be construed as prohibiting  
7 the hospital authority from determining the number of employees,  
8 the number of full-time equivalent positions, the job descriptions,  
9 and the nature and extent of classified employment positions.

10 (3) Employees of the hospital authority are public employees  
11 for purposes of Division 3.6 (commencing with Section 810) of  
12 Title 1 of the Government Code relating to claims and actions  
13 against public entities and public employees.

14 (x) Any hospital authority created pursuant to this section shall  
15 be bound by the terms of the memorandum of understanding  
16 executed by and between the county and health care and  
17 management employee organizations that is in effect as of the date  
18 this legislation becomes operative in the county. Upon the  
19 expiration of the memorandum of understanding, the hospital  
20 authority shall have sole authority to negotiate subsequent  
21 memorandums of understanding with appropriate employee  
22 organizations. Subsequent memorandums of understanding shall  
23 be approved by the hospital authority.

24 (y) The hospital authority created pursuant to this section may  
25 borrow from the county and the county may lend the hospital  
26 authority funds or issue revenue anticipation notes to obtain those  
27 funds necessary to operate the medical center and otherwise provide  
28 medical services.

29 (z) The hospital authority shall be subject to state and federal  
30 taxation laws that are applicable to counties generally.

31 (aa) The hospital authority, the county, or both, may engage in  
32 marketing, advertising, and promotion of the medical and health  
33 care services made available to the community at the medical  
34 center.

35 ~~(bb)~~

36 (ab) The hospital authority shall not be a “person” subject to  
37 suit under the Cartwright Act (Chapter 2 (commencing with Section  
38 16700) of Part 2 of Division 7 of the Business and Professions  
39 Code).

40 ~~(cc)~~

1     (ac) Notwithstanding Article 4.7 (commencing with Section  
2     1125) of Chapter 1 of Division 4 of Title 1 of the Government  
3     Code related to incompatible activities, no member of the hospital  
4     authority administrative staff shall be considered to be engaged in  
5     activities inconsistent and incompatible with his or her duties as  
6     a result of employment or affiliation with the county.

7     ~~(dd)~~

8     (ad) (1) The hospital authority may use a computerized  
9     management information system in connection with the  
10    administration of the medical center.

11    (2) Information maintained in the management information  
12    system or in other filing and records maintenance systems that is  
13    confidential and protected by law shall not be disclosed except as  
14    provided by law.

15    (3) The records of the hospital authority, whether paper records,  
16    records maintained in the management information system, or  
17    records in any other form, that relate to trade secrets or to payment  
18    rates or the determination thereof, or which relate to contract  
19    negotiations with providers of health care, shall not be subject to  
20    disclosure pursuant to the California Public Records Act (Chapter  
21    5 (commencing with Section 6250) of Division 7 of Title 1 of the  
22    Government Code). The transmission of the records, or the  
23    information contained therein in an alternative form, to the board  
24    of supervisors shall not constitute a waiver of exemption from  
25    disclosure, and the records and information once transmitted shall  
26    be subject to this same exemption. The information, if compelled  
27    pursuant to an order of a court of competent jurisdiction or  
28    administrative body in a manner permitted by law, shall be limited  
29    to in-camera review, which, at the discretion of the court, may  
30    include the parties to the proceeding, and shall not be made a part  
31    of the court file unless sealed.

32    ~~(ee)~~

33    (ae) (1) Notwithstanding any other law, the governing board  
34    may order that a meeting held solely for the purpose of discussion  
35    or taking action on hospital authority trade secrets, as defined in  
36    subdivision (d) of Section 3426.1 of the Civil Code, shall be held  
37    in closed session. The requirements of making a public report of  
38    actions taken in closed session and the vote or abstention of every  
39    member present may be limited to a brief general description  
40    devoid of the information constituting the trade secret.

1 (2) The governing board may delete the portion or portions  
2 containing trade secrets from any documents that were finally  
3 approved in the closed session that are provided to persons who  
4 have made the timely or standing request.

5 (3) Nothing in this section shall be construed as preventing the  
6 governing board from meeting in closed session as otherwise  
7 provided by law.

8 ~~(ff)~~

9 *(af)* Open sessions of the hospital authority shall constitute  
10 official proceedings authorized by law within the meaning of  
11 Section 47 of the Civil Code. The privileges set forth in that section  
12 with respect to official proceedings shall apply to open sessions  
13 of the hospital authority.

14 ~~(gg)~~

15 *(ag)* The hospital authority shall be a public agency for purposes  
16 of eligibility with respect to grants and other funding and loan  
17 guarantee programs. Contributions to the hospital authority shall  
18 be tax deductible to the extent permitted by state and federal law.  
19 Nonproprietary income of the hospital authority shall be exempt  
20 from state income taxation.

21 ~~(hh)~~

22 *(ah)* Contracts by and between the hospital authority and the  
23 state and contracts by and between the hospital authority and  
24 providers of health care, goods, or services may be let on a nonbid  
25 basis and shall be exempt from Chapter 2 (commencing with  
26 Section 10290) of Part 2 of Division 2 of the Public Contract Code.

27 ~~(ii)~~

28 *(ai)* (1) Provisions of the Evidence Code, the Government Code,  
29 including the Public Records Act (Chapter 5 (commencing with  
30 Section 6250) of Division 7 of Title 1 of the Government Code),  
31 the Civil Code, the Business and Professions Code, and other  
32 applicable law pertaining to the confidentiality of peer review  
33 activities of peer review bodies shall apply to the peer review  
34 activities of the hospital authority. Peer review proceedings shall  
35 constitute an official proceeding authorized by law within the  
36 meaning of Section 47 of the Civil Code and those privileges set  
37 forth in that section with respect to official proceedings shall apply  
38 to peer review proceedings of the hospital authority. If the hospital  
39 authority is required by law or contractual obligation to submit to  
40 the state or federal government peer review information or

1 information relevant to the credentialing of a participating provider,  
2 that submission shall not constitute a waiver of confidentiality.  
3 The laws pertaining to the confidentiality of peer review activities  
4 shall be together construed as extending, to the extent permitted  
5 by law, the maximum degree of protection of confidentiality.

6 (2) Notwithstanding any other law, Section 1461 shall apply to  
7 hearings on the reports of hospital medical audit or quality  
8 assurance committees.

9 ~~(jj)~~

10 ~~(aj)~~ The hospital authority shall carry general liability insurance  
11 to the extent sufficient to cover its activities.

12 ~~(kk)~~

13 ~~(ak)~~ In the event the board of supervisors determines that the  
14 hospital authority should no longer function for the purposes as  
15 set forth in this chapter, the board of supervisors may, by ordinance,  
16 terminate the activities of the hospital authority and expire the  
17 hospital authority as an entity.

18 ~~(H)~~

19 ~~(al)~~ A hospital authority which is created pursuant to this section  
20 but which does not obtain the administration, management, and  
21 control of the medical center or which has those duties and  
22 responsibilities revoked by the board of supervisors shall not be  
23 empowered with the powers enumerated in this section.

24 ~~(mm)~~

25 ~~(am)~~ (1) The county shall establish baseline data reporting  
26 requirements for the medical center consistent with the Medically  
27 Indigent Health Care Reporting System (MICRS) program  
28 established pursuant to Section 16910 of the Welfare and  
29 Institutions Code and shall collect that data for at least one year  
30 prior to the final transfer of the medical center to the hospital  
31 authority established pursuant to this chapter. The baseline data  
32 shall include, but not be limited to, all of the following:

33 (A) Inpatient days by facility by quarter.

34 (B) Outpatient visits by facility by quarter.

35 (C) Emergency room visits by facility by quarter.

36 (D) Number of unduplicated users receiving services within the  
37 medical center.

38 (2) Upon transfer of the medical center, the county shall  
39 establish baseline data reporting requirements for each of the  
40 medical center inpatient facilities consistent with data reporting

1 requirements of the Office of Statewide Health Planning and  
2 Development, including, but not limited to, monthly average daily  
3 census by facility for all of the following:

4 (A) Acute care, excluding newborns.

5 (B) Newborns.

6 (C) Skilled nursing facility, in a distinct part.

7 (3) From the date of transfer of the medical center to the hospital  
8 authority, the hospital authority shall provide the county with  
9 quarterly reports specified in paragraphs (1) and (2) and any other  
10 data required by the county. The county, in consultation with health  
11 care consumer groups, shall develop other data requirements that  
12 shall include, at a minimum, reasonable measurements of the  
13 changes in medical care for the indigent population of Alameda  
14 County that result from the transfer of the administration,  
15 management, and control of the medical center from the county  
16 to the hospital authority.

17 ~~(nn)~~

18 *(an)* A hospital authority established pursuant to this section  
19 shall comply with the requirements of Sections 53260 and 53261  
20 of the Government Code.

21 *(ao)* *This section shall remain in effect only until January 1,*  
22 *2015, and as of that date is repealed, unless a later enacted statute,*  
23 *that is enacted before January 1, 2015, deletes or extends that*  
24 *date.*

25 *SEC. 2. Section 101850 of the Health and Safety Code, as*  
26 *amended by Section 3 of Chapter 46 of the Statutes of 2014, is*  
27 *amended to read:*

28 101850. The Legislature finds and declares the following:

29 (a) (1) Due to the challenges facing the Alameda Health System  
30 arising from changes in the public and private health industries,  
31 the Alameda County Board of Supervisors has determined that a  
32 transfer of governance of the Alameda Health System to an  
33 independent governing body, a hospital authority, is needed to  
34 improve the efficiency, effectiveness, and economy of the  
35 community health services provided at the medical center. The  
36 board of supervisors has further determined that the creation of an  
37 independent hospital authority strictly and exclusively dedicated  
38 to the management, administration, and control of the medical  
39 center, in a manner consistent with the county's obligations under  
40 Section 17000 of the Welfare and Institutions Code, is the best

1 way to fulfill its commitment to the medically indigent, special  
2 needs, and general populations of Alameda County. To accomplish  
3 this, it is necessary that the board of supervisors be given authority  
4 to create a hospital authority. Because there is no general law under  
5 which this authority could be formed, the adoption of a special act  
6 and the formation of a special authority is required.

7 (2) The following definitions shall apply for purposes of this  
8 section:

9 (A) "The county" means the County of Alameda.

10 (B) "Governing board" means the governing body of the hospital  
11 authority.

12 (C) "Hospital authority" means the separate public agency  
13 established by the Board of Supervisors of Alameda County to  
14 manage, administer, and control the Alameda Health System.

15 (D) "Medical center" means the Alameda Health System, which  
16 was formerly known as the Alameda County Medical Center.

17 (b) The board of supervisors of the county may, by ordinance,  
18 establish a hospital authority separate and apart from the county  
19 for the purpose of effecting a transfer of the management,  
20 administration, and control of the medical center in accordance  
21 with Section 14000.2 of the Welfare and Institutions Code. A  
22 hospital authority established pursuant to this chapter shall be  
23 strictly and exclusively dedicated to the management,  
24 administration, and control of the medical center within parameters  
25 set forth in this chapter, and in the ordinance, bylaws, and contracts  
26 adopted by the board of supervisors that shall not be in conflict  
27 with this chapter, Section 1442.5 of this code, or Section 17000  
28 of the Welfare and Institutions Code.

29 (c) A hospital authority established pursuant to this chapter shall  
30 be governed by a board that is appointed, both initially and  
31 continually, by the Board of Supervisors of the County of Alameda.  
32 This hospital authority governing board shall reflect both the  
33 expertise necessary to maximize the quality and scope of care at  
34 the medical center in a fiscally responsible manner and the diverse  
35 interest that the medical center serves. The enabling ordinance  
36 shall specify the membership of the hospital authority governing  
37 board, the qualifications for individual members, the manner of  
38 appointment, selection, or removal of governing board members,  
39 their terms of office, and all other matters that the board of

1 supervisors deems necessary or convenient for the conduct of the  
2 hospital authority's activities.

3 (d) The mission of the hospital authority shall be the  
4 management, administration, and other control, as determined by  
5 the board of supervisors, of the group of public hospitals, clinics,  
6 and programs that comprise the medical center, in a manner that  
7 ensures appropriate, quality, and cost-effective medical care as  
8 required of counties by Section 17000 of the Welfare and  
9 Institutions Code, and, to the extent feasible, other populations,  
10 including special populations in the County of Alameda.

11 (e) The board of supervisors shall adopt bylaws for the medical  
12 center that set forth those matters related to the operation of the  
13 medical center by the hospital authority that the board of  
14 supervisors deems necessary and appropriate. The bylaws shall  
15 become operative upon approval by a majority vote of the board  
16 of supervisors. Any changes or amendments to the bylaws shall  
17 be by majority vote of the board of supervisors.

18 (f) The hospital authority created and appointed pursuant to this  
19 section is a duly constituted governing body within the meaning  
20 of Section 1250 and Section 70035 of Title 22 of the California  
21 Code of Regulations as currently written or subsequently amended.

22 (g) Unless otherwise provided by the board of supervisors by  
23 way of resolution, the hospital authority is empowered, or the  
24 board of supervisors is empowered on behalf of the hospital  
25 authority, to apply as a public agency for one or more licenses for  
26 the provision of health care pursuant to statutes and regulations  
27 governing licensing as currently written or subsequently amended.

28 (h) In the event of a change of license ownership, the governing  
29 body of the hospital authority shall comply with the obligations  
30 of governing bodies of general acute care hospitals generally as  
31 set forth in Section 70701 of Title 22 of the California Code of  
32 Regulations, as currently written or subsequently amended, as well  
33 as the terms and conditions of the license. The hospital authority  
34 shall be the responsible party with respect to compliance with these  
35 obligations, terms, and conditions.

36 (i) (1) Any transfer by the county to the hospital authority of  
37 the administration, management, and control of the medical center,  
38 whether or not the transfer includes the surrendering by the county  
39 of the existing general acute care hospital license and corresponding  
40 application for a change of ownership of the license, shall not



1 affect the eligibility of the county, or in the case of a change of  
2 license ownership, the hospital authority, to do any of the  
3 following:

4 (A) Participate in, and receive allocations pursuant to, the  
5 California Healthcare for the Indigents Program (CHIP).

6 (B) Receive supplemental reimbursements from the Emergency  
7 Services and Supplemental Payments Fund created pursuant to  
8 Section 14085.6 of the Welfare and Institutions Code.

9 (C) Receive appropriations from the Medi-Cal Inpatient Payment  
10 Adjustment Fund without relieving the county of its obligation to  
11 make intergovernmental transfer payments related to the Medi-Cal  
12 Inpatient Payment Adjustment Fund pursuant to Section 14163 of  
13 the Welfare and Institutions Code.

14 (D) Receive Medi-Cal capital supplements pursuant to Section  
15 14085.5 of the Welfare and Institutions Code.

16 (E) Receive any other funds that would otherwise be available  
17 to a county hospital.

18 (2) Any transfer described in paragraph (1) shall not otherwise  
19 disqualify the county, or in the case of a change in license  
20 ownership, the hospital authority, from participating in any of the  
21 following:

22 (A) Other funding sources either specific to county hospitals or  
23 county ambulatory care clinics or for which there are special  
24 provisions specific to county hospitals or to county ambulatory  
25 care clinics.

26 (B) Funding programs in which the county, on behalf of the  
27 medical center and the Alameda County Health Care Services  
28 Agency, had participated prior to the creation of the hospital  
29 authority, or would otherwise be qualified to participate in had the  
30 hospital authority not been created, and administration,  
31 management, and control not been transferred by the county to the  
32 hospital authority, pursuant to this chapter.

33 (j) A hospital authority created pursuant to this chapter shall be  
34 a legal entity separate and apart from the county and shall file the  
35 statement required by Section 53051 of the Government Code.  
36 The hospital authority shall be a government entity separate and  
37 apart from the county, and shall not be considered to be an agency,  
38 division, or department of the county. The hospital authority shall  
39 not be governed by, nor be subject to, the charter of the county  
40 and shall not be subject to policies or operational rules of the

1 county, including, but not limited to, those relating to personnel  
2 and procurement.

3 (k) (1) Any contract executed by and between the county and  
4 the hospital authority shall provide that liabilities or obligations  
5 of the hospital authority with respect to its activities pursuant to  
6 the contract shall be the liabilities or obligations of the hospital  
7 authority, and shall not become the liabilities or obligations of the  
8 county.

9 (2) Any liabilities or obligations of the hospital authority with  
10 respect to the liquidation or disposition of the hospital authority's  
11 assets upon termination of the hospital authority shall not become  
12 the liabilities or obligations of the county.

13 (3) Any obligation of the hospital authority, statutory,  
14 contractual, or otherwise, shall be the obligation solely of the  
15 hospital authority and shall not be the obligation of the county or  
16 the state.

17 (l) (1) Notwithstanding any other provision of this section, any  
18 transfer of the administration, management, or assets of the medical  
19 center, whether or not accompanied by a change in licensing, shall  
20 not relieve the county of the ultimate responsibility for indigent  
21 care pursuant to Section 17000 of the Welfare and Institutions  
22 Code or any obligation pursuant to Section 1442.5 of this code.

23 (2) Any contract executed by and between the county and the  
24 hospital authority shall provide for the indemnification of the  
25 county by the hospital authority for liabilities as specifically set  
26 forth in the contract, except that the contract shall include a  
27 provision that the county shall remain liable for its own negligent  
28 acts.

29 (3) Indemnification by the hospital authority shall not be  
30 construed as divesting the county from its ultimate responsibility  
31 for compliance with Section 17000 of the Welfare and Institutions  
32 Code.

33 (m) Notwithstanding the provisions of this section relating to  
34 the obligations and liabilities of the hospital authority, a transfer  
35 of control or ownership of the medical center shall confer onto the  
36 hospital authority all the rights and duties set forth in state law  
37 with respect to hospitals owned or operated by a county.

38 (n) (1) A transfer of the maintenance, operation, and  
39 management or ownership of the medical center to the hospital

1 authority shall comply with the provisions of Section 14000.2 of  
2 the Welfare and Institutions Code.

3 (2) A transfer of maintenance, operation, and management or  
4 ownership to the hospital authority may be made with or without  
5 the payment of a purchase price by the hospital authority and  
6 otherwise upon the terms and conditions that the parties may  
7 mutually agree, which terms and conditions shall include those  
8 found necessary by the board of supervisors to ensure that the  
9 transfer will constitute an ongoing material benefit to the county  
10 and its residents.

11 (3) A transfer of the maintenance, operation, and management  
12 to the hospital authority shall not be construed as empowering the  
13 hospital authority to transfer any ownership interest of the county  
14 in the medical center except as otherwise approved by the board  
15 of supervisors.

16 (o) The board of supervisors shall retain control over the use of  
17 the medical center physical plant and facilities except as otherwise  
18 specifically provided for in lawful agreements entered into by the  
19 board of supervisors. Any lease agreement or other agreement  
20 between the county and the hospital authority shall provide that  
21 county premises shall not be sublet without the approval of the  
22 board of supervisors.

23 (p) The statutory authority of a board of supervisors to prescribe  
24 rules that authorize a county hospital to integrate its services with  
25 those of other hospitals into a system of community service that  
26 offers free choice of hospitals to those requiring hospital care, as  
27 set forth in Section 14000.2 of the Welfare and Institutions Code,  
28 shall apply to the hospital authority upon a transfer of maintenance,  
29 operation, and management or ownership of the medical center by  
30 the county to the hospital authority.

31 (q) The hospital authority shall have the power to acquire and  
32 possess real or personal property and may dispose of real or  
33 personal property other than that owned by the county, as may be  
34 necessary for the performance of its functions. The hospital  
35 authority shall have the power to sue or be sued, to employ  
36 personnel, and to contract for services required to meet its  
37 obligations. Before January 1, 2024, the hospital authority shall  
38 not enter into a contract with any ~~private other person or entity~~  
39 *entity, including, but not limited to, a subsidiary or other entity*  
40 *established by the authority*, to replace services being provided by

1 physicians and surgeons who are employed by the hospital  
2 authority and in a recognized collective bargaining unit as of March  
3 31, 2013, with services provided by ~~a private~~ *that other person or*  
4 entity without clear and convincing evidence that the needed  
5 medical care can only be delivered cost effectively by ~~a private~~  
6 ~~contractor.~~ *that other person or entity.* Prior to entering into a  
7 contract for any of those services, the authority shall negotiate  
8 with the representative of the recognized collective bargaining unit  
9 of its physician and surgeon employees over the decision to  
10 privatize and, if unable to resolve any dispute through negotiations,  
11 shall submit the matter to final binding arbitration.

12 (r) Any agreement between the county and the hospital authority  
13 shall provide that all existing services provided by the medical  
14 center shall continue to be provided to the county through the  
15 medical center subject to the policy of the county and consistent  
16 with the county's obligations under Section 17000 of the Welfare  
17 and Institutions Code.

18 (s) A hospital authority to which the maintenance, operation,  
19 and management or ownership of the medical center is transferred  
20 shall be a "district" within the meaning set forth in the County  
21 Employees Retirement Law of 1937 (Chapter 3 (commencing with  
22 Section 31450) of Part 3 of Division 4 of Title 3 of the Government  
23 Code). Employees of a hospital authority are eligible to participate  
24 in the County Employees Retirement System to the extent  
25 permitted by law, except as described in Section 101851.

26 (t) Members of the governing board of the hospital authority  
27 shall not be vicariously liable for injuries caused by the act or  
28 omission of the hospital authority to the extent that protection  
29 applies to members of governing boards of local public entities  
30 generally under Section 820.9 of the Government Code.

31 (u) The hospital authority shall be a public agency subject to  
32 the Meyers-Milias-Brown Act (Chapter 10 (commencing with  
33 Section 3500) of Division 4 of Title 1 of the Government Code).

34 (v) Any transfer of functions from county employee  
35 classifications to a hospital authority established pursuant to this  
36 section shall result in the recognition by the hospital authority of  
37 the employee organization that represented the classifications  
38 performing those functions at the time of the transfer.

39 (w) (1) In exercising its powers to employ personnel, as set  
40 forth in subdivision (p), the hospital authority shall implement,

1 and the board of supervisors shall adopt, a personnel transition  
2 plan. The personnel transition plan shall require all of the  
3 following:

4 (A) Ongoing communications to employees and recognized  
5 employee organizations regarding the impact of the transition on  
6 existing medical center employees and employee classifications.

7 (B) Meeting and conferring on all of the following issues:

8 (i) The timeframe for which the transfer of personnel shall occur.  
9 The timeframe shall be subject to modification by the board of  
10 supervisors as appropriate, but in no event shall it exceed one year  
11 from the effective date of transfer of governance from the board  
12 of supervisors to the hospital authority.

13 (ii) A specified period of time during which employees of the  
14 county impacted by the transfer of governance may elect to be  
15 appointed to vacant positions with the Alameda County Health  
16 Care Services Agency for which they have tenure.

17 (iii) A specified period of time during which employees of the  
18 county impacted by the transfer of governance may elect to be  
19 considered for reinstatement into positions with the county for  
20 which they are qualified and eligible.

21 (iv) Compensation for vacation leave and compensatory leave  
22 accrued while employed with the county in a manner that grants  
23 affected employees the option of either transferring balances or  
24 receiving compensation to the degree permitted employees laid  
25 off from service with the county.

26 (v) A transfer of sick leave accrued while employed with the  
27 county to hospital authority employment.

28 (vi) The recognition by the hospital authority of service with  
29 the county in determining the rate at which vacation accrues.

30 (vii) The possible preservation of seniority, pensions, health  
31 benefits, and other applicable accrued benefits of employees of  
32 the county impacted by the transfer of governance.

33 (2) Nothing in this subdivision shall be construed as prohibiting  
34 the hospital authority from determining the number of employees,  
35 the number of full-time equivalent positions, the job descriptions,  
36 and the nature and extent of classified employment positions.

37 (3) Employees of the hospital authority are public employees  
38 for purposes of Division 3.6 (commencing with Section 810) of  
39 Title 1 of the Government Code relating to claims and actions  
40 against public entities and public employees.

(x) Any hospital authority created pursuant to this section shall be bound by the terms of the memorandum of understanding executed by and between the county and health care and management employee organizations that is in effect as of the date this legislation becomes operative in the county. Upon the expiration of the memorandum of understanding, the hospital authority shall have sole authority to negotiate subsequent memorandums of understanding with appropriate employee organizations. Subsequent memorandums of understanding shall be approved by the hospital authority.

(y) The hospital authority created pursuant to this section may borrow from the county and the county may lend the hospital authority funds or issue revenue anticipation notes to obtain those funds necessary to operate the medical center and otherwise provide medical services.

(z) The hospital authority shall be subject to state and federal taxation laws that are applicable to counties generally.

(aa) The hospital authority, the county, or both, may engage in marketing, advertising, and promotion of the medical and health care services made available to the community at the medical center.

(ab) The hospital authority shall not be a “person” subject to suit under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code).

(ac) Notwithstanding Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code related to incompatible activities, a member of the hospital authority administrative staff shall not be considered to be engaged in activities inconsistent and incompatible with his or her duties as a result of employment or affiliation with the county.

(ad) (1) The hospital authority may use a computerized management information system in connection with the administration of the medical center.

(2) Information maintained in the management information system or in other filing and records maintenance systems that is confidential and protected by law shall not be disclosed except as provided by law.

(3) The records of the hospital authority, whether paper records, records maintained in the management information system, or

1 records in any other form, that relate to trade secrets or to payment  
2 rates or the determination thereof, or which relate to contract  
3 negotiations with providers of health care, shall not be subject to  
4 disclosure pursuant to the California Public Records Act (Chapter  
5 5 (commencing with Section 6250) of Division 7 of Title 1 of the  
6 Government Code). The transmission of the records, or the  
7 information contained therein in an alternative form, to the board  
8 of supervisors shall not constitute a waiver of exemption from  
9 disclosure, and the records and information once transmitted shall  
10 be subject to this same exemption. The information, if compelled  
11 pursuant to an order of a court of competent jurisdiction or  
12 administrative body in a manner permitted by law, shall be limited  
13 to in-camera review, which, at the discretion of the court, may  
14 include the parties to the proceeding, and shall not be made a part  
15 of the court file unless sealed.

16 (ae) (1) Notwithstanding any other law, the governing board  
17 may order that a meeting held solely for the purpose of discussion  
18 or taking action on hospital authority trade secrets, as defined in  
19 subdivision (d) of Section 3426.1 of the Civil Code, shall be held  
20 in closed session. The requirements of making a public report of  
21 actions taken in closed session and the vote or abstention of every  
22 member present may be limited to a brief general description  
23 devoid of the information constituting the trade secret.

24 (2) The governing board may delete the portion or portions  
25 containing trade secrets from any documents that were finally  
26 approved in the closed session that are provided to persons who  
27 have made the timely or standing request.

28 (3) Nothing in this section shall be construed as preventing the  
29 governing board from meeting in closed session as otherwise  
30 provided by law.

31 (af) Open sessions of the hospital authority shall constitute  
32 official proceedings authorized by law within the meaning of  
33 Section 47 of the Civil Code. The privileges set forth in that section  
34 with respect to official proceedings shall apply to open sessions  
35 of the hospital authority.

36 (ag) The hospital authority shall be a public agency for purposes  
37 of eligibility with respect to grants and other funding and loan  
38 guarantee programs. Contributions to the hospital authority shall  
39 be tax deductible to the extent permitted by state and federal law.

1 Nonproprietary income of the hospital authority shall be exempt  
2 from state income taxation.

3 (ah) Contracts by and between the hospital authority and the  
4 state and contracts by and between the hospital authority and  
5 providers of health care, goods, or services may be let on a nonbid  
6 basis and shall be exempt from Chapter 2 (commencing with  
7 Section 10290) of Part 2 of Division 2 of the Public Contract Code.

8 (ai) (1) Provisions of the Evidence Code, the Government Code,  
9 including the Public Records Act (Chapter 5 (commencing with  
10 Section 6250) of Division 7 of Title 1 of the Government Code),  
11 the Civil Code, the Business and Professions Code, and other  
12 applicable law pertaining to the confidentiality of peer review  
13 activities of peer review bodies shall apply to the peer review  
14 activities of the hospital authority. Peer review proceedings shall  
15 constitute an official proceeding authorized by law within the  
16 meaning of Section 47 of the Civil Code and those privileges set  
17 forth in that section with respect to official proceedings shall apply  
18 to peer review proceedings of the hospital authority. If the hospital  
19 authority is required by law or contractual obligation to submit to  
20 the state or federal government peer review information or  
21 information relevant to the credentialing of a participating provider,  
22 that submission shall not constitute a waiver of confidentiality.  
23 The laws pertaining to the confidentiality of peer review activities  
24 shall be together construed as extending, to the extent permitted  
25 by law, the maximum degree of protection of confidentiality.

26 (2) Notwithstanding any other law, Section 1461 shall apply to  
27 hearings on the reports of hospital medical audit or quality  
28 assurance committees.

29 (aj) The hospital authority shall carry general liability insurance  
30 to the extent sufficient to cover its activities.

31 (ak) In the event the board of supervisors determines that the  
32 hospital authority should no longer function for the purposes as  
33 set forth in this chapter, the board of supervisors may, by ordinance,  
34 terminate the activities of the hospital authority and expire the  
35 hospital authority as an entity.

36 (al) A hospital authority which is created pursuant to this section  
37 but which does not obtain the administration, management, and  
38 control of the medical center or which has those duties and  
39 responsibilities revoked by the board of supervisors shall not be  
40 empowered with the powers enumerated in this section.



(am) (1) The county shall establish baseline data reporting requirements for the medical center consistent with the Medically Indigent Health Care Reporting System (MICRS) program established pursuant to Section 16910 of the Welfare and Institutions Code and shall collect that data for at least one year prior to the final transfer of the medical center to the hospital authority established pursuant to this chapter. The baseline data shall include, but not be limited to, all of the following:

- (A) Inpatient days by facility by quarter.
- (B) Outpatient visits by facility by quarter.
- (C) Emergency room visits by facility by quarter.
- (D) Number of unduplicated users receiving services within the medical center.

(2) Upon transfer of the medical center, the county shall establish baseline data reporting requirements for each of the medical center inpatient facilities consistent with data reporting requirements of the Office of Statewide Health Planning and Development, including, but not limited to, monthly average daily census by facility for all of the following:

- (A) Acute care, excluding newborns.
- (B) Newborns.
- (C) Skilled nursing facility, in a distinct part.

(3) From the date of transfer of the medical center to the hospital authority, the hospital authority shall provide the county with quarterly reports specified in paragraphs (1) and (2) and any other data required by the county. The county, in consultation with health care consumer groups, shall develop other data requirements that shall include, at a minimum, reasonable measurements of the changes in medical care for the indigent population of Alameda County that result from the transfer of the administration, management, and control of the medical center from the county to the hospital authority.

(an) A hospital authority established pursuant to this section shall comply with the requirements of Sections 53260 and 53261 of the Government Code.

(ao) *This section shall become operative January 1, 2015.*

SEC. 3. *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

1 *In order to protect, at the earliest possible time, the employment*  
2 *status of represented doctors at the Alameda Health System,*  
3 *formerly known as the Alameda County Medical Center, which*  
4 *has incorporated a nonprofit public benefit corporation called*  
5 *Alameda Health Partners, and to ensure continued medical*  
6 *services to the community, it is necessary for this act to take effect*  
7 *immediately.*

8 ~~SECTION 1. Section 11045 of the Government Code is~~  
9 ~~amended to read:~~

10 ~~11045. (a) (1) Whenever a state agency requests the consent~~  
11 ~~of the Attorney General to employ outside counsel, as required by~~  
12 ~~Section 11040, the state agency shall within five business days of~~  
13 ~~the date the request is transmitted to the Attorney General provide~~  
14 ~~the designated representative of State Employees Bargaining Unit~~  
15 ~~2 with written notification of the request. The notice shall include~~  
16 ~~the items enumerated in subdivision (d).~~

17 ~~(2) All state agencies, other than the office of the Attorney~~  
18 ~~General, that are not required to obtain the consent required by~~  
19 ~~subdivision (c) of Section 11040, shall provide written notice of~~  
20 ~~any proposed contract for outside legal counsel to the designated~~  
21 ~~representative of State Employees Bargaining Unit 2 five business~~  
22 ~~days prior to execution of the contract by the state agency. The~~  
23 ~~notice shall include the items required by subdivision (d). In the~~  
24 ~~event of an emergency that requires the immediate employment~~  
25 ~~of outside counsel, the state agency shall provide the written notice~~  
26 ~~no later than five business days after the contract with outside~~  
27 ~~counsel is signed.~~

28 ~~(3) Whenever the Attorney General determines the need to~~  
29 ~~employ outside legal counsel pursuant to subdivision (b) of Section~~  
30 ~~12520, the Attorney General shall give written notice to the~~  
31 ~~designated representative of State Employees Bargaining Unit 2~~  
32 ~~within 10 days of that determination. The notice shall include the~~  
33 ~~items enumerated in subdivision (d).~~

34 ~~(b) The Attorney General shall provide the designated~~  
35 ~~representative of State Employees Bargaining Unit 2 with a written~~  
36 ~~report, at least monthly, of all consents granted to every state~~  
37 ~~agency pursuant to Section 11040.~~

38 ~~(c) Notwithstanding the above notice requirements, whenever~~  
39 ~~any state agency submits a proposed contract for outside counsel~~  
40 ~~to the Department of General Services pursuant to Section 10335~~

1 of the Public Contract Code, the agency shall provide a copy of  
2 the contract to the designated representative of State Employees  
3 Bargaining Unit 2. The failure of a state agency to provide a copy  
4 of the contract to the designated representative shall be an  
5 independent basis for the State Personnel Board to disapprove the  
6 contract pursuant to the authority granted by Article 4  
7 (commencing with Section 19130) of Chapter 5 of Part 2 of  
8 Division 5.

9 (d) “Written notice” within the meaning of this section shall  
10 include, but not be limited to, all of the following:

11 (1) A copy of the complaint or other pleadings, if any, that gave  
12 rise to the litigation or matter for which a contract is being sought,  
13 or other identifying information.

14 (2) The justification for the contract, pursuant to subdivision  
15 (b) of Section 19130.

16 (3) The nature of the legal services to be performed.

17 (4) The estimated hourly wage to be paid under the contract.

18 (5) The estimated length of the contract.

19 (6) The identity of the person or entity that is entering into the  
20 contract with the state.

21 (e) “State agency,” as used in this section, means every state  
22 office, department, division, bureau, board, or commission;  
23 including the Board of Directors of the State Compensation  
24 Insurance Fund, but does not include the Regents of the University  
25 of California, the Trustees of the California State University, the  
26 Legislature, the courts, or any agency in the judicial branch of  
27 government.

28 (f) (1) The notice requirements of this section do not apply to  
29 contracts for expert witnesses or consultations in connection with  
30 a confidential investigation or to any confidential component of a  
31 pending or active legal action.

32 (2) The exemption authorized in paragraph (1) shall only apply  
33 as long as necessary to protect the confidentiality of the  
34 investigation or the confidential component of a pending or active  
35 legal action.

36 (3) Disclosures made pursuant to this section are deemed to be  
37 privileged communications for purposes of subdivision (e) of  
38 Section 912 of the Evidence Code, and shall not be construed to  
39 be a waiver of any privilege or exemption provided by law,  
40 including, but not limited to, the lawyer-client privilege, as

1 described in Section 952 of the Evidence Code, or attorney work  
2 product, as described in Chapter 4 (commencing with Section  
3 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure.  
4 (g) If the provisions of this section are in conflict with the  
5 provisions of a memorandum of understanding or other written  
6 agreement reached pursuant to Section 3517 or 3517.5, the  
7 memorandum of understanding or agreement shall be controlling  
8 without further legislative action, except that if any provision of  
9 the memorandum of understanding or other agreement requires  
10 the expenditure of funds, the provisions may not become effective  
11 unless approved by the Legislature.